

"AMENDED COMPLAINT"

Revised 03/06 WDNV

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NEW YORK

FORM TO BE USED IN FILING A COMPLAINT UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983 (Prisoner Complaint Form)

All material filed in this Court is now available via the **INTERNET**. See **Pro Se Privacy Notice** for further information.

1. CAPTION OF ACTION

A. Full Name And Prisoner Number of Plaintiff: **NOTE:** *If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.*

1. Eric Devon Robinson (11B0821)
2. _____

-VS-

B. Full Name(s) of Defendant(s) **NOTE:** *Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants, you may continue this section on another sheet of paper if you indicate below that you have done so.*

1. City of Geneva New York
2. Steven Vine (Geneva Police officer)
3. Officer Bielowicz (Geneva Police officer)
4. Officer Potter (Geneva Police officer)
5. Officer Winter (Geneva Police officer)
6. Jack Motesanto (Geneva Police officer)

NOTE: Defendant #7 added on separate sheet of paper.

2. STATEMENT OF JURISDICTION

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION **NOTE:** *To list additional plaintiffs, use this format on another sheet of paper.*

Name and Prisoner Number of Plaintiff: Eric Devon Robinson (11B0821)

Present Place of Confinement & Address: Attica Correctional Facility

Box 149

Attica, NY 14011

Name and Prisoner Number of Plaintiff: _____

Present Place of Confinement & Address: _____

Amended Complaint

DEFENDANT'S INFORMATION NOTE: To provide information about more defendants than there is room for here, use this format on another sheet of paper.

Name of Defendant: City of Geneva New York

(If applicable) Official Position of Defendant: _____

(If applicable) Defendant is Sued in X Individual and/or X Official Capacity

Address of Defendant: Geneva, New York 14456

Name of Defendant: Steven Vine (Geneva Police Dept.)

(If applicable) Official Position of Defendant: Police officer

(If applicable) Defendant is Sued in X Individual and/or _____ Official Capacity

Address of Defendant: 255 Exchange St.
Geneva, New York 14456

Name of Defendant: Officer Bielowicz (Geneva Police Dept.)

(If applicable) Official Position of Defendant: Police officer

(If applicable) Defendant is Sued in X Individual and/or _____ Official Capacity

Address of Defendant: 255 Exchange St.
Geneva, New York 14456

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

- A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?
Yes _____ No X

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. Court (if federal court, name the district; if state court, name the county): N/A

3. Docket or Index Number: _____

4. Name of Judge to whom case was assigned: _____

DEFENDANT'S INFORMATION NOTE: *To provide information about more defendants than there is room for here, use this format on another sheet of paper.*

Name of Defendant: Officer Potter (Geneva Police Dept.)

(If applicable) Official Position of Defendant: Police officer

(If applicable) Defendant is Sued in X Individual and/or _____ Official Capacity

Address of Defendant: 255 EXchange St.
Geneva, New York 14456

Name of Defendant: officer winter (Geneva Police Dept.)

(If applicable) Official Position of Defendant: Police officer

(If applicable) Defendant is Sued in X Individual and/or _____ Official Capacity

Address of Defendant: 255 Exchange St.
Geneva, NY 14456

Name of Defendant: Jack Motesanto (Geneva Police Dept.)

(If applicable) Official Position of Defendant: Police Officer

(If applicable) Defendant is Sued in X Individual and/or Official Capacity

Address of Defendant: 255 Exchange St.
Geneva, New York 14456

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

A. Have you begun any other lawsuits in **state or federal court** dealing with **the same facts involved in this action**?
 Yes _____ No X

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. Court (if federal court, name the district; if state court, name the county): _____

3. Docket or Index Number:

4. Name of Judge to whom case was assigned: _____

Defendant's Information "Amended Complaint"

NAME of Defendant: Frank Pane

official position of Defendant: Geneva City Chief of Police

Defendant is Sued in X Individual capacity

Address of Defendant: 255 Exchange St.
Geneva, NY 14456

Amended Complaint

5. The approximate date the action was filed: N/A
6. What was the disposition of the case?

Is it still pending? Yes ☐ No ☐

If not, give the approximate date it was resolved. N/A

Disposition (check the statements which apply):

☐ Dismissed (check the box which indicates why it was dismissed):

- ☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- ☐ By court for failure to exhaust administrative remedies;
- ☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- ☐ By court due to your voluntary withdrawal of claim;

☐ Judgment upon motion or after trial entered for

☐ plaintiff

☐ defendant.

B. Have you begun any other lawsuits in federal court which relate to your imprisonment?

Yes ☐ No ☒

If Yes, complete the next section. NOTE: If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): N/A

Defendant(s): N/A

2. District Court: _____

3. Docket Number: _____

4. Name of District or Magistrate Judge to whom case was assigned: _____

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes ☐ No ☐

If not, give the approximate date it was resolved. N/A

Amended Complaint

Disposition (check the statements which apply):

☐ Dismissed (check the box which indicates why it was dismissed):

- ☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- ☐ By court for failure to exhaust administrative remedies;
- ☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- ☐ By court due to your voluntary withdrawal of claim;

☐ Judgment upon motion or after trial entered for

- ☐ plaintiff
- ☐ defendant.

5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

- | | | |
|--------------------|------------------------|-------------------------------|
| • Religion | • Access to the Courts | • Search & Seizure |
| • Free Speech | • False Arrest | • Malicious Prosecution |
| • Due Process | • Excessive Force | • Denial of Medical Treatment |
| • Equal Protection | • Failure to Protect | • Right to Counsel |

Please note that it is not enough to just list the ground(s) for your action. You **must** include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995). **Fed.R.Civ.P. 10(b)** states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

Exhaustion of Administrative Remedies

Note that according to 42 U.S.C. § 1997e(a), "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prison er confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.

Amended Complaint

A. FIRST CLAIM: On (date of the incident) March 24, 2010,
defendant (give the **name and position held** of each defendant involved in this incident) Geneva Police
officer's Steven Vine, Jack Motesanto, Bielowicz, Potter, and
Winter Used Excessive force Violating my Constitutional Rights.
did the following to me (briefly state what each defendant named above did): _____

PLEASE See Attached Sheet's

Documents will explain everything
that happend in Detail

The constitutional basis for this claim under 42 U.S.C. § 1983 is: Excessive force /
4th, and 14th Amendment viol.

The relief I am seeking for this claim is (briefly state the relief sought): Compensatory Damages
paine suffering,
the right to sue for purative Damages.

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? _____ Yes ☒ No If yes, what was the result? _____

Did you appeal that decision? _____ Yes ☒ No If yes, what was the result? N/A

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: N/A

A. SECOND CLAIM: On (date of the incident) march 24, 2010,
defendant (give the **name and position held** of each defendant involved in this incident) City of Geneva
and Geneva Police Chief Pane (in individual
Capacity) for failuar to train, supervise and
investegate civilian complaint's. There is an official policy
or custome allowing the police officer's to use Excessive force.
chief Pane is an official policy maker who had actual or
constructive Knowledge of a persistant pattern of prior Abuses.
The city is Liable under "monell".

Amended Complaint

did the following to me (briefly state what each defendant named above did): _____

Please See Attached sheet's

Document's will explain everything
That happend in Detail

The constitutional basis for this claim under 42 U.S.C. § 1983 is: Excessive Force /
4th and 14th Amendment violation's

The relief I am seeking for this claim is (briefly state the relief sought): Compensatory / Damages /
pain & suffering /
for the right to sue for Punative Damages

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? _____ Yes _____ No If yes, what was the result? _____

Did you appeal that decision? _____ Yes _____ No If yes, what was the result? _____

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: _____

If you have additional claims, use the above format and set them out on additional sheets of paper.

6. RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

Compensatory / Damages / pain & suffering / Mental Anguish /
Punative Damages to Punish Defendant's for their
Actions, there by for preventing it from Reaccuring
Again.

Do you want a jury trial? Yes X No _____

7/1/11

I Eric Devon Robinson do swear that the statement I'm providing is correct, and true to the best of my knowledge and ability. I'm not under the influence of any mental health medications, ALCOHOL, or any other drug's that would impair my judgement of writing a true statement. I'm making this statement in sound mind, body, and of my own free will.

Respectfully,
Eric D. Robinson
Eric D. Robinson

SWORN TO BEFORE ME ON THIS

5 DAY OF July, 2011

NOTARY PUBLIC

GARY E. GRIFFIN
NOTARY PUBLIC, STATE OF NEW YORK
REGISTRATION No. 01GR0120003
QUALIFIED IN ERIE COUNTY
My Commission Expires May 16, 2013

On March 24, 2010 in the evening hours, I was driving on Geneva St. in the City of Geneva, N.Y. I noticed a Geneva police patrol car parked with its headlights off at the corner of Tillman, and Geneva St. As I passed the patrol car, and slowed to stop for an upcoming stop sign at the corner of Lewis and Geneva St. While stopped at the stop sign I noticed a patrol car approaching me from behind in my rear view mirror. I then signaled to turn left onto Lewis St., then I signaled to turn right onto Genessee St. The entire time I'm being followed by the Geneva police patrol car. As soon as I made my turn onto Genessee St., I was pulled over by a Geneva City patrol car. I then pulled my jeep to the right side of the street in front of a church, across from Goodelle Terr. St.

The officer then approached my jeep and asked me for my License and registration. I noticed this officer as being Steven Vine, the same officer I filed a harassment complaint against prior to this incident. I told the officer that "I don't mind giving you my License and registration, but could you tell me why I'm being pulled over". The officer stated "You have a sticker

in your rear window that is obstructing your view of driving!". I then handed the officer my restricted use license, and my insurance information. The officer after receiving my information asked me my Date of birth and name. The officer then told me to "sit tight while I run your information". The officer returned a short time later to my jeep, and told me I'm under arrest for driving on a restricted use license. The officer on the passenger side, asked my passenger what was his name. He turned to officer Vine and stated "it chucky you know me Vine". officer Vine stated "oh that's chucky you're free to go!". Then officer vine told me to get out of my car and place my hand's on the hood of the car. I got out of my car and put both hand's on the hood of my car as instructed by the officer. When I placed my hand's on the hood of the car I was pushed from behind. I then turned my head with both my hand's remaining on the hood of my car, and asked officer vine "what was that for". I was then struck in the back of my head with a very hard foreign object, that caused me to lose consciousness. When I regained my conscious I noticed I was in the middle of the road with several different colored light's flashing in a blurr, with several uniformed police officer's on top of me, wearing black glove's!. I then noticed where I was and began to call out my cousin Larry's name, because he resides a few houses from where I was being Assaulted by these officer's. I was told by an unidentified officer to "shut my mouth"!. Second's Later I

received a closed fist punch to my right eye, my eye immediately began to bleed uncontrollably, impairing my vision. Confused, and bleeding very badly I was now very much in fear for my life!, so I began once again to yell for my Cousin Larry in an attempt to get someones attention. Immediately after I yelled his name for the second time, I seen a bright light coming toward my face. I was then struck once again with what I believe to be a flashlight in my forehead, I was again knocked unconscious. I was awakened to E.M.T. putting me on a stretcher, and placed in the ambulance where I was transported to Geneva General Hospital, Located in the city of Geneva, Ny.

While at Geneva General Hospital I was admitted, and treated for multiple laceration's (which required several stitches to my eye and forehead), multiple abbrasion's, bruises, and contusion's. I also received severe trauma damage to my retina in my eye. The damage to my eye was so severe, I was transported, and admitted to Strong Memorial Hospital in Rochester, Ny.

On March 24, 2010 I was beaten worse than an animal by Steven Vine, Jack Montesanto, officer Potter, officer Bielowicz, and officer Winter all of whom mentioned are "Geneva City Police officer's". I was brutally Kicked, punched, Kneed, and hit with several foreign object's, by officer's that took a "sworn oath" to uphold the law. But instead is trying to undermine the law and take it into their own hands. I pray that "all" involved in the severe beating of myself, be punished for not only violating my civil rights, but for breaking the very Laws they took an oath by swearing to uphold.

I want to thank the Court for taking the time to listen to my pleas and concerns. I pray that swift justice is served on all those involved in the "Excessive force" beating of myself, so as this may never happen to any other citizen's, to ruin anymore lives, and families!. Thank's again for listening to my concerns and pleas for Justice.

Respectfully,
Eric D. Robinson
Eric D. Robinson

SWORN TO BEFORE ME ON THIS

5 DAY OF July 2011

NOTARY PUBLIC

GARY E. GRIFFIN

NOTARY PUBLIC, STATE OF NEW YORK

REGISTRATION No. 01GR6126983

QUALIFIED IN ERIE COUNTY

My Commission Expires May 16, 2013

Amended Complaint

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 1, 2011
(date)

NOTE: Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.

Eric D. Robinson
Signature(s) of Plaintiff(s)

SWORN TO BEFORE ME ON THIS

5 DAY OF July, 2011

[Signature]
NOTARY PUBLIC

GARY E. GRIFFIN
NOTARY PUBLIC, STATE OF NEW YORK
REGISTRATION No. 01GR612698/
QUALIFIED IN ERIE COUNTY
My Commission Expires May 13, 2013